

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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In re REFCO INC. SECURITIES LITIGATION : Case No. 07-md-1902 (JSR)

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This Document Relates To:

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KENNETH M. KRYS, *et al.*, : Case No. 08-cv-7416 (JSR)
Plaintiffs, :
-against- : DECLARATION OF MASON
ROBERT AARON, *et al.*, : SIMPSON IN SUPPORT OF
Defendants. : PLAINTIFFS' MOTION TO
----- X DISMISS

Mason Simpson declares as follows:

1. I am a member of the law firm Brown Rudnick LLP, co-counsel, with Beus Gilbert PLLC, for plaintiffs Kenneth M. Krys, *et al.* ("Plaintiffs") in the above-captioned action. I am admitted to practice before this Court. I respectfully submit this declaration in support of Plaintiffs' motion to dismiss counterclaims asserted by defendants/counterclaimants Derivatives Portfolio Management, LLC, Derivatives Portfolio Management, Ltd., DPM-Mellon, LLC, DPM-Mellon, Ltd. and Guy Castranova.

2. Attached hereto as Exhibit A are true and correct copies of the July 9, 2002, May 1, 2003 and June 30, 2004 Service Agreements between DPM and the SPhinX Funds.

3. Attached hereto as Exhibit B is a true and correct copy of the Amended Answer, Affirmative Defenses, Counterclaims and Third Party Complaint to the Amended Complaint by Defendants Derivative Portfolio Management, LLC, Derivative Portfolio Management, LTD, DPM-Mellon, LLC, DPM-Mellon LTD, and Guy Castranova dated August 15, 2011.

4. Attached hereto as Exhibit C is a true and correct copy of the Plaintiffs' Amended Complaint dated April 15, 2008.

5. I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 13, 2011

A handwritten signature in black ink, appearing to read "Mason Simpson", is written over a horizontal line. To the right of the signature, the name "MASON SIMPSON" is printed in a smaller, sans-serif font, enclosed within a large, roughly circular, hand-drawn oval.